

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACQUELINE S. KUJDA, et al.)	CASE NO.:
)	
Plaintiffs)	JUDGE:
)	
v.)	DEFENDANT EVERIDGE INC.'S
)	NOTICE OF REMOVAL OF CIVIL
CLIMATE PROS, LLC., et al.)	ACTION TO THE UNITED STATES
)	DISTRICT COURT FOR THE
Defendants)	NORTHERN DISTRICT OF OHIO
)	
)	
)	

Defendant, Everidge, Inc., by and through undersigned counsel and pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446, respectfully requests that this Court remove this action from the Court of Common Pleas, Portage County, Ohio to the United States District Court for the Northern District of Ohio. In support of this request, Defendants state as follows:

1. Everidge, Inc. is a defendant in a civil action pending in the Court of Common Pleas, Portage County, Ohio, styled *Jacqueline Kujda, et al. v. Climate Pros LLC, et al.*, Portage County C.P. Case No.: 2021CV00037. Plaintiff, Jacqueline A. Kujda, Administrator of the Estate of Patrick J. Cooper, Deceased, filed this action on January 20, 2021.¹ The Clerk of Courts for the Court of Common Pleas, Portage County, Ohio issued Summonses upon Defendants Climate Pros, LLC, Target Corp. and Everidge, Inc. on January 20, 2021. (See Ex. “C”.)

¹ A true and accurate copy of Plaintiff's Complaint, the Summonses, and the Portage County Court of Common Pleas Docket are attached hereto as Exhibits “A,” “B,” and “C,” respectively.

2. Everidge, Inc. received copies of the Summons and Complaint on or about January 26, 2021. (*See* Ex. "B".) The Summons and Complaint constitute all process, pleadings, and orders served upon or received by Everidge, Inc. in the state court action.

3. Everidge, Inc. filed this Notice of Removal pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446.

4. Plaintiff's claims stem from an incident that occurred on February 26, 2019, when Patrick J. Cooper, the decedent, was performing electrical work for a commercial refrigeration project at a Target store located in Streetsboro, Ohio. (*See* Ex. "A" at ¶¶ 12-17.) Plaintiff alleges claims of negligence, wrongful death, and also brings a survival action against Defendants.

5. Upon information and belief, Plaintiff was the legal spouse of Patrick J. Cooper, and is an individual citizen of the United States who resides in the State of Ohio. (*See* Ex. "A" at ¶ 1.) Upon information and belief, Plaintiff is not individual citizen of any other state. (*Id.*)

6. Defendant Climate Pros, LLC is a limited liability company organized under the laws of the State of Delaware. (*See id.* at ¶ 2.) Climate Pros, LLC maintains its principal place of business in Glendale Heights, Illinois, and as such, is a corporate citizen of the States of Delaware and Illinois (*Id.*) Upon information and belief, Climate Pros, LLC is not a corporate citizen of any other state. (*Id.*)

7. Defendant Target Corporation is a corporation incorporated pursuant to the laws of the State of Minnesota. (*See id.* at ¶ 3.) Target Corporation maintains its principal place of business in Minneapolis, Minnesota, and as such, is a corporate citizen of the State of Minnesota. (*Id.*) Upon information and belief, Target Corporation is not a corporate citizen of any other state. (*Id.*)

8. Defendant Everidge, Inc. is a corporation incorporated pursuant to the laws of the State of Minnesota. (*See id.* at ¶ 4.) Everidge, Inc. maintains its principal place of business in Plymouth, Minnesota, and as such, is a corporate citizen of the State of Minnesota. (*Id.*) Everidge, Inc. is not a corporate citizen of any other state. (*Id.*)

9. Plaintiff's Complaint seeks an unspecified amount of compensatory damages in an amount in excess of \$25,000. (*Id.* at ¶¶ 35-37.) Plaintiff's Complaint also alleges that Defendants' failures and deviations from the requisite standards of care caused and/or contributed to significant pain and suffering and fear of imminent death to Patrick J. Cooper. (*Id.* at ¶ 37.) Upon information and belief, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

10. Given that there is complete diversity of the parties' citizenship, and since the amount in controversy exceeds \$75,000.00, this Court has original subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. As such, this action is subject to removal pursuant to 28 U.S.C. § 1441.

11. Everidge Inc. filed this Notice of Removal within thirty (30) days from the date on which it received Plaintiff's Complaint. Therefore, removal of this matter is timely pursuant to 28 U.S.C. § 1446.

12. Plaintiff has allegedly perfected service on all Defendants. Defendant Target Corporation has consented to this removal and the undersigned counsel is awaiting a response from Climate Pros, LLC's consent regarding removal. Given that Climate Pros, LLC was served on February 4, 2021, it has until March 6, 2021, or 30 days from service, to timely indicate its consent to removal pursuant to 28 U.S.C. § 1446.

13. Everidge, Inc. served a copy of this Notice of Removal upon all parties, as well as filed it with the appropriate state court, both pursuant to 28 U.S.C. § 1446.²

14. Everidge, Inc. asserts its right to a trial by jury.

15. Everidge, Inc. does not waive any jurisdictional or other defenses available to it.

WHEREFORE, Everidge, Inc. prays for the removal of the above-captioned civil action from the Court of Common Pleas, Portage County, Ohio to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

/s/Robert A. Pleines

THOMAS J. CABRAL (0033041)
ROBERT A. PLEINES JR (0096137)
Gallagher Sharp LLP
1215 Superior Avenue, 7th Floor
Cleveland, OH 44114
(216) 241-5310 Telephone
(216) 241-1608 Facsimile
E-Mail: tcabral@gallaghersharp.com
rpleines@gallaghersharp.com
Attorneys for Defendant Everidge, Inc.

² A Notice of Filing of Notice of Removal is being simultaneously filed with the Portage County Court of Common Pleas.

CERTIFICATE OF SERVICE

The foregoing *Defendant Everidge, Inc.* 's *Notice of Removal of Civil Action to the United States District Court for the Northern District of Ohio* was electronically filed with the Court on February 25, 2021. A true copy of the foregoing was also served by electronic mail and/or United States mail, postage prepaid, on February 25, 2021 upon the following:

Charles E. Boyk, Esq. (0000494)
Kathleen R. Harris, Esq. (0088079)
Andrea R. Young, Esq. (0096334)
Charles E. Boyk Law Officers, LLC
1500 Timberwolf Drive
Holland, Ohio 43528
Telephone: (419) 241-1395
Facsimile: (419) 241-8731
cboyk@charlesboyk-law.com
kharris@charlesboyk-law.com
ayoung@charlesboyk-law.com
Attorneys for Plaintiff

Joseph H. Wantz (0023406)
6060 Rockside Woods Blvd, Suite 131
Independence, Ohio 44131
Phone: (216) 538-6078
Fax: (603) 334-9543
Joseph.wantz@libertymutual.com
Attorney for Defendant Climate Pros, LLC

TARGET CORPORATION
c/o CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

/s/Robert A. Pleines
THOMAS J. CABRAL (0033041)
ROBERT A. PLEINES JR (0096137)
Gallagher Sharp LLP
Attorneys for Defendant Everidge Inc.